

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

WINDWARD BORA LLC,

Plaintiff,

v.

JOHN FRUSCIANTE, et al.,

Defendants.

-----X

ORDER

No. 20-CV-07511 (PMH)

PHILIP M. HALPERN, United States District Judge:

Counsel for plaintiff and defendant Scores appeared in Courtroom 520 today for a pretrial conference. Defendant Frusciante did not appear.

As explained more fully on the record during the appearance, the Court directs the parties to meet and confer regarding the Court's directives and instructions concerning the Proposed Joint Pretrial Order (Doc. 88), and shall file by January 13, 2023:

1. A proposed Amended JPTO;
2. Proposed findings of fact and conclusions of law including any opposition thereto in a single document; and
3. Any motions *in limine*. Opposition to any motions *in limine* shall be filed by January 20, 2023.

The Court granted Defendant's request to permit live direct testimony of Defendant's witnesses; the Court will hear Defendant's witnesses' direct testimony during the trial and Defendant will not submit any affidavits constituting direct testimony. By January 13, 2023, Plaintiff shall submit to the Court in accordance with Rule 6(D) the affidavits constituting the direct testimony of each of Plaintiff's trial witnesses. Defendant shall, three business days after submission of such affidavits, submit a list of all affiants he intends to cross-examine at trial.

By January 13, 2023, the parties shall serve, and submit to the Court, all documentary exhibits in accordance with Rule 6(D).

For the reasons stated on the record, the Court precluded Plaintiff from using the purported expert witness Richard T. Picciochi at trial, and precluded all parties from offering any expert testimony at trial.

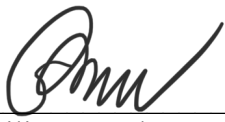
The Court granted Defendant Scores leave to move for a default judgment against Defendant Frusciante as to liability only. The motion shall be served and filed by December 26, 2022; Frusciante's opposition, if any, shall be served and filed by January 16, 2023; and any reply shall be served and filed by January 23, 2023.

An Order of Reference to Magistrate Judge McCarthy for settlement will be separately docketed. The order of reference for settlement shall have no effect upon this order and the trial schedule; there will be no adjournments of the deadlines set forth herein.

See Transcript.

SO ORDERED.

Dated: White Plains, New York
December 12, 2022



Philip M. Halpern
United States District Judge